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Jason Clay Pearson

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EXAMINER

SZEKELY, PETER A

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/772,121  
Filing Date: February 04, 2004  
Appellant(s): PEARSON ET AL.

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Louis N. Moreno  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 1/14/08 appealing from the Office action mailed 7/3/07.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

4,287,325	Jackson, Jr. et al.	9-1981
5,859,073	Pfaendner et al.	1-1999

6,103,857	Jones et al.	8-2000
5,656,715	Dickerson et al.	8-1997
6,342,579	Jeon et al.	1-2002
6,780,917	Hashimoto et al.	8-2004
6,727,303	Ono et al.	4-2004
2003/0109629	Pierre et al.	6-2003

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

#### ***Claim Rejections - 35 USC § 103***

Claims 1, 3-33 and 68-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto et al. 6,780,917 or Ono et al. 6,727,303, in view of Pierre et al. 2003/0109629, Pfaendner et al. 5,859,073, Jackson, Jr. et al. 4,287,325, Dickerson et al. 5,656,715, Jones et al. 6,103,857 or Jaen e al. 6,342,579.

Hashimoto et al. disclose polycarbonate and polyester in claim 1, bisphenol A derived polycarbonate in column 4, lines 26-39, diacids and diols from column 8, lines 61, to column 9 line 23, metal catalysts from column 9, line 47, to column 10, line 7, intrinsic viscosity in column 10, lines 10-13, phosphites and their concentrations from column 22, line 61, to column 23, line 58, UV absorbers and hindered amines with their concentrations in column 24, lines 11-31. Ono et al. teach polycarbonate and polyester in claim 1, bisphenol A derived polycarbonate in column 4, lines 31-45, diols and diacids in the paragraph overlapping columns 11 and 12, metal catalysts in column 12, lines 43-60, intrinsic viscosity in column 12, lines 61-65, phosphites in column 22, lines 1-31 and

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column 24, lines 49-68, their concentrations in column 27, lines 1-7, UV absorbers and hindered amines with their concentrations from column 27, line 38, to column 28, line 37. Pierre et al. recite polyester, polycarbonate, UV absorber and hindered amine in claim 1, hindered amines in claims 25-28 and 39, their concentration in claim 29, UV stabilizers in claims 31-34, diacids and diols in paragraphs 0012-0026, intrinsic viscosity in paragraph 0018, metal catalyzed polyester in paragraph 0027, bisphenol A derived polycarbonate in paragraph 0036, phosphites in paragraph 0048, their concentration in paragraph 0049 and hindered amines and UV stabilizers in paragraphs 0061-0082. See also Tables 1-3. Pfaendner et al. divulge polyester and polycarbonate in claim 1, phosphites in claim 5, and hindered amines in column 25, lines 24-27. Jackson, Jr. et al. reveal polyesters from diacids and diols in claims 1-3. Dickerson et al. display diacids and diols in claims 14, 18 and 19. Jones et al. present diacids and diols in claims 1-8. Jeon et al. present diols and diacid in claim 1. It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to use the phosphites and the hindered amines and the diol and diacid monomers of the secondary references, in the show ratios, in the compositions of the primary references, since they are all using polyesters and polycarbonates having the same or very similar compositions.

#### **(10) Response to Argument**

The cited primary references disclose all the ingredients of applicants' claimed compositions, namely polyesters, polycarbonates, phosphites and hindered amines. They show metal catalysts, the claimed diols and diacids, bisphenol A derived

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polycarbonates and the molecular weight of the polyesters too. Accordingly, they would exhibit the so called unexpected results due to the presence of the HALS compounds and the phosphorus compounds discussed in applicants' second reply and amendment. Admittedly, the primary references do not show the ratios of the different monomers making up applicants' claimed polyesters. However, the secondary references cover the claimed monomer ratios, proving that polyesters of the claimed composition are well known and applicants have not shown that variations in the ratios or chemical compositions of the different monomers making up the claimed polyesters make the slightest difference as far as the stability (heat, light and hydrolytic) of the claimed compounds is concerned. This proves that the compositions are obvious. Minimizing the catalyst residue is also well known. See the Abstracts of Strand et al. 5,688,899 or Shih 5,859,116. This is done to overcome deleterious effects. Ono et al. show deactivating of the catalysts in column 12, lines 54-60, while Hashimoto et al. refer to in column 10, lines 1-7. The small residue is inherent in the composition.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Peter Szekely /Peter Szekely/

Primary Examiner, Art Unit 1796

Primary Examiner

Art Unit: 1796

GAU 1796

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TC 1700